

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KEITH L. NASH

Plaintiff,

v.

DOUG WADDINGTON, *et al.*,

Defendants.

Case No. C06-5127 RJB/KLS

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

Before the Court is Plaintiff's motion for counsel. (Dkt. # 122). Having reviewed Plaintiff's motion, Defendants' opposition (Dkt. # 124) and Plaintiff's reply (Dkt. # 139), the Court finds that Plaintiff's motion should be denied.

DISCUSSION

There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the court, under 28 U.S.C. § 1915(d), can request counsel to represent a party proceeding *in forma pauperis*, the court may do so only in exceptional circumstances. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986); *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984); *Aldabe v. Aldabe*, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved. *Wilborn*, 789 F.2d at 1331.

1 Plaintiff has demonstrated an adequate ability to articulate his claims *pro se*. Plaintiff has
2 filed numerous motions in this case and has engaged in extensive discovery without the assistance of
3 counsel. The issues in this case, whether or not Plaintiff has been denied access to courts and
4 whether he was wrongfully infracted, are not complex. Nor has Plaintiff provided any evidence of
5 exceptional circumstances or a likelihood of success on the merits.

6 Accordingly, Plaintiff's motion for the appointment of counsel (Dkt. # 198) is **DENIED**.

7 The Clerk is directed to send copies of this Order to Plaintiff and counsel for Defendants.

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9 DATED this 27th day of July, 2007.

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12 Karen L. Strombom
13 United States Magistrate Judge
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